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Report of the open-ended intergovernmental process to conduct open, transparent and inclusive negotiations on how to strengthen and enhance the effective functioning of the human rights treaty body system

Note by the President of the General Assembly

The General Assembly, in its resolution 66/254 of 23 February 2012, requested the President of the General Assembly to launch an open-ended intergovernmental process to conduct open, transparent and inclusive negotiations on how to strengthen and enhance the effective functioning of the human rights treaty body system, and to appoint two co-facilitators to assist in that process. Pursuant to that request, on 11 April 2012, I appointed Greta Gunnarsdottir, Permanent Representative of Iceland to the United Nations, and Desra Percaya, Permanent Representative of Indonesia to the United Nations, as co-facilitators of the process.

I now have the pleasure to transmit herewith the report of the co-facilitators on the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, containing the deliberations and recommendations of the intergovernmental process (see annex).

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Annex

Report of the open-ended intergovernmental process to conduct open, transparent and inclusive negotiations on how to strengthen and enhance the effective functioning of the human rights treaty body system

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I. Introduction and overview

1. On 23 February 2012, the General Assembly adopted resolution 66/254, entitled "Intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system". The resolution requests the President of the General Assembly to:

(a) Launch within the framework of the Assembly, an open-ended intergovernmental process to conduct open, transparent and inclusive negotiations on how to strengthen and enhance the effective functioning of the human rights treaty body system, and to appoint two co-facilitators to assist him in this process.

(b) Establish appropriate channels of communication with the President of the Human Rights Council and to work out separate informal arrangements, after consultation with Member States, that would allow the open-ended intergovernmental process to benefit from the inputs and expertise of the human rights treaty bodies, national human rights institutions and relevant non-governmental organizations, bearing in mind the intergovernmental nature of the process.

(c) Report by the end of the sixty-sixth session on the deliberations and recommendations of the open-ended intergovernmental process for further consideration by the Assembly, including consideration of a possible extension of the process.

2. This report serves to inform Member States of the deliberations of the intergovernmental process as requested in the resolution.

3. In the United Nations Secretary-General's reports A/HRC/19/28 and A/66/344, he informed Member States about the challenges that the treaty bodies system was currently facing and recommended some measures that could be adopted to address the situation, in the short and long term. This laid the groundwork for future discussions of Member States on the issue.

4. In addition, the recent report of the High Commissioner contained in document A/66/860 was published on the basis of her extensive consultations with many different stakeholders. In so doing she had attempted to approach this issue in a comprehensive way and provide Member States with information and recommendations on many aspects of the treaty body system.

II. Work of the co-facilitators during the sixty-sixth session of the General Assembly

5. In a letter dated 11 April 2012, the President of the General Assembly appointed H.E. Ms. Greta Gunnarsdottir, Permanent Representative of Iceland, and H.E. Mr. Desra Percaya, Permanent Representative of Indonesia, to jointly co-facilitate the process on his behalf.

6. The co-facilitators have held numerous consultations including:

(a) Two informal meetings with Member States, on 12 June and 2 July 2012, respectively.

(b) Numerous bilateral consultations with Member States.

(c) A videoconference with the Chairs of the treaty bodies on 25 June 2012.

(d) Thematic discussions on 16-18 July 2012, with treaty body experts, representatives from national human rights institutions and civil society participating as resource persons.

(e) A civil society forum on 4 September 2012 to provide an opportunity for civil society to contribute to the discussion on strengthening and enhancing the effective functioning of the human rights treaty body system.

(f) Informal-informals on 6, 10, 11 and 12 September 2012 to discuss a draft resolution as an outcome of the sixty-sixth session of the General Assembly.

III. Organization of work

7. At the meeting with Member States on 12 June 2012 a number of Member States expressed the wish that the co-facilitators would be able to move the process forward as agreed in the resolution. Nonetheless, delegations were mindful of other meetings and consultations scheduled to take place during the final months of the sixty-sixth session of the General Assembly.

8. Among the meetings highlighted by delegations were in particular Rio+20, the substantive session of the Economic and Social Council and the United Nations Conference on the Arms Trade Treaty. In order to avoid conflicts in schedules, the co-facilitators presented a timeline to Member States that would allow them time to consider new reports, such as the High Commissioner's report mentioned in the resolution, and bring the substantive discussion forward.

9. General Assembly resolution 66/254, in its operative paragraphs 4 and 6, reaffirms that the deliberations in the framework of the open-ended intergovernmental process should be open to all States Members of the United Nations, observer States, relevant intergovernmental organizations and relevant United Nations bodies. It also requested the President of the General Assembly to work out separate informal arrangements, after consultation with Member States, that would allow the open-ended intergovernmental process to benefit from the inputs and expertise of the human rights treaty bodies, national human rights institutions and relevant non-governmental organizations.

10. Bearing in mind these provisions, there were varying views among Member States regarding how best to benefit from the inputs and expertise of the human rights treaty bodies, national human rights institutions and relevant non-governmental organizations.

11. The co-facilitators therefore consulted with a number of delegations as well as heard the views of Member States on the issue in the informals held and made, without prejudice to any future format of engagement with these actors, a number of observations on how best to organize their participation in the intergovernmental process.

12. Following these consultations, in which national human rights institutions and non-governmental organizations participated, Paris-Principle compliant national human rights institutions and those non-governmental organizations in consultative status with the Economic and Social Council were able to interact directly in order to voice their views on various issues of concern. Furthermore, NGOs not in

consultative status with the Economic and Social Council were able to participate after consultations with Member States on a non-objection basis. Additionally, national human rights institutions made an intervention at the opening of the thematic discussions (16-18 July).

13. The co-facilitators noted that various delegations had underlined the distinct competences as well as experience of different stakeholders to the furtherance of the issue, and hence called for the participation of such stakeholders, in particular that of the experts of the human rights treaty bodies. Responding to this, the co-facilitators invited the chair and the vice-chair of the meeting of chairpersons of the human rights treaty bodies to act as resource persons during the thematic discussions from 16 to 18 July. The co-facilitators also suggested that all chairpersons of the human rights treaty bodies act as focal points for communication with their respective committees and encouraged continued discussion within each committee.

IV. Themes and non-exhaustive list of issues

14. To accommodate the views expressed by Member States during the informal meetings on 12 June and 2 July 2012, particularly the need to engage in a structured discussion on themes relevant for strengthening the functioning of the treaty body system, the co-facilitators based the following consultations on thematic clustering of issues.

15. Thematic consultations were held from 16 to 18 July 2012, designed to provide Member States with the opportunity to discuss the thematic clustering of issues proposed by the co-facilitators, as well as any issues deemed crucial by Member States in the context of the intergovernmental process.

16. An initial non-exhaustive list of themes was presented by the co-facilitators, taken from various submissions and comments by Member States, reports submitted by the United Nations Secretary-General and the High Commissioner for Human Rights, as well as from other relevant sources, related to strengthening and enhancing the effective functioning of the human rights treaty body system.

17. These themes were:

(a) The recommendation of the High Commissioner on a master calendar;

(b) The reporting process;

(c) Methods of work;

(d) Capacity to implement.

18. The resourcing of the treaty body system was addressed as a cross-cutting issue throughout the discussions. The four themes were intentionally broad in order to enable different issues to be raised within their scope. Finally, a non-exhaustive list of issues which was developed under each theme was shared with all Member States before the 16 to 18 July 2012 consultations so as to facilitate discussions.

19. During the thematic discussions Member States actively contributed on a number of issues, including those on the list of non-exhaustive issues that was previously circulated. In addition, a number of alternative proposals, excellent questions and comments for furthering the discussion on many of these issues were

raised. The co-facilitators have attempted to capture additional issues raised by Member States in the appendix to this report.

20. In the view of the co-facilitators, the discussion revealed that there is already common ground on some of the issues while others require certain adjustments based on Member States' views. Others still require further clarification as indicated by Member States, such as resources, the master calendar and capacity-building.

21. Some delegations were of the view that certain issues could possibly be addressed in the short term, including the simplified reporting procedure, the requirements of summary records, webcasting and videoconference availability, a handbook on expectations, availability and required workload of treaty body experts, the need to address backlogs and coordinated requests for additional meeting time and the need for focused treaty body concluding observations.

22. Some delegations were of the inclination not to focus only on the above-mentioned issues, and conveyed the preference to discuss all issues on an equal footing, in the hope of coming up with a comprehensive agreement.

V. Consultations with chairpersons of the human rights treaty bodies

23. On 25 June 2012, at the request of the chairpersons of the human rights treaty bodies who were meeting in Addis Ababa, the co-facilitators met with the chairpersons by videoconference. The chairpersons provided a number of inputs to the co-facilitators, including:

(a) That each treaty body has participated constructively and actively in the process of the High Commissioner for Human Rights and that the chairpersons hoped to continue to do so in the intergovernmental process.

(b) Highlighting the current efforts of the treaty bodies in strengthening their work, including their efforts to formulate guidelines for their work and to harmonize their working methods, while also noting the differences between the treaty bodies.

(c) Expressing their appreciation for the report of the High Commissioner for Human Rights, especially the recommendation on a master calendar.

VI. Civil society forum

24. A civil society forum, held on 4 September 2012, was intended to provide a platform and give an opportunity to civil society to contribute to the discussion in the intergovernmental process.

25. The forum utilized videoconferencing to garner more participants from venues in New York and Geneva. Participants extended their appreciation of the efforts of the co-facilitators, while some suggested that a wider inclusion of organizations was needed from various regional areas.

26. Various concerns were conveyed by representatives of civil society organizations, both on procedural and substantive issues. In terms of the procedural arrangements put in place to facilitate their inputs, some civil society actors commented that they felt that for their role in the outcome of the intergovernmental

process to be sufficient, additional arrangements needed to be made. To this end some suggestions were sent to the co-facilitators for their consideration.

VII. Recommendations

27. Given the relatively short amount of time for Member States to deliberate and consider the numerous issues raised so far during the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, no specific recommendations for action were finalized.

28. The co-facilitators considered the overall approach of Member States during the process as positive and constructive. Based on these discussions, there is clearly a need and basis for further consultations. It is therefore recommended that the General Assembly decide to extend the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system to the sixty-seventh session of the General Assembly.

29. For clarity, certain issues require more information, including, among others, those related to resourcing of the treaty body system. The co-facilitators therefore recommend that a comprehensive cost review of the treaty body system be provided in a background note to the renewed intergovernmental process by the end of 2012. The background note could contain detailed information on a number of costing issues, including the cost of the current system, including for conference services and documentation, as well as the additional resources required to clear the current backlog, the assessed allocation needed to fully service the current system and the unit cost of each element of the treaty body system.

Appendix

Non-exhaustive list of issues

The co-facilitators developed a non-exhaustive list of issues to provide some structure to the discussions in the intergovernmental process. Each theme is intentionally broad to enable different issues to be raised and the list below should be viewed as indicative. Resourcing of the treaty body system should be addressed as a cross-cutting issue as was done during the thematic discussions.[a]

I. Master calendar

Overview

To achieve greater clarity on timing, greater efficiency, and generally greater access to the reporting process, the High Commissioner has proposed a comprehensive reporting calendar. As proposed, the calendar would combine all current reporting deadlines into a single system, based on a periodic five-year cycle. Within this five-year period, there would be a maximum of two reports per annum for States that have ratified all treaties. After the submission of a report a period of six months would follow for other stakeholders to provide supplementary information and then another six months for the concerned treaty body to prepare for the interactive dialogue. This would mean that over five years, any State would have submitted all reports due under all treaties, and that every report would be examined within one year following its submission.

Non-exhaustive list of issues

1. **Opportunities for optimizing treaty bodies work** — What opportunities for optimizing treaty body work does the Master Calendar provide?

2. **Modalities and order of consideration of reports** — What issues arise from how the reports are divided between the years; are there, for example, reports that are more appropriately considered during the same year or even at the same time?

3. **Length of cycle** — What is the most appropriate length of a cycle of consideration in the context of the master calendar?

4. **The required resources, both immediate and incremental, and possible long-term savings** — The master calendar requires resources both in the short and the long term. At the same time it will have cost savings in the long term due to increased efficiencies.

[a] These themes emerged from State submissions and comments, as well as from other stakeholders, the recent report of the High Commissioner for Human Rights and the previous reports of the Secretary-General.

II. Methods of work

Overview

This theme addresses issues such as strengthening the independence and expertise of treaty body members, individual communications procedures, inquiries, country visits and the enhanced visibility and accessibility of the treaty bodies.

Non-exhaustive list of issues

1. **Guidelines on independence and impartiality of members of the human rights treaty bodies in the exercise of their functions** — Guidelines adopted by the chairpersons of the treaty bodies to guarantee the independence and impartiality of treaty body members.

2. **Webcasting to enhance the accessibility and visibility of treaty bodies at country level** — Webcasting of all public meetings of the treaty bodies to gain transparency and participation of relevant stakeholders in the reporting process.

3. **Videoconferencing** — Using videoconferencing technologies to facilitate the participation of different actors in all steps of the reporting process.

4. **A handbook on expectations, availability and required workload and a centralized treaty body elections website** — A handbook containing the established facts and information on the election process, conditions and other relevant requirements pertaining to membership of a treaty body, particularly to highlight the practical expectations and workload for treaty body experts.

5. **Proposals for policies and processes with respect to the nomination and elections of experts to the treaty bodies** — Ideas related to national initiatives to ensure transparency and the nomination of highly qualified experts, the election process and terms for treaty body experts.

6. **Open public space for all State Parties to present their potential candidates or nominees for treaty bodies** — An open space, moderated by five former treaty body members, using modern technologies, including social media, to ensure an open and transparent selection process.

7. **Strengthening the meetings of State Parties** — The idea of strengthening the dialogue of State Parties at the regular meeting of State Parties, for example through a regular relevant agenda item on those issues that affect the full and effective implementation of the treaty during meetings/conferences of State Parties.

8. **Other measures to enhance the visibility and accessibility of the treaty body system** — The idea of an OHCHR communications strategy to better disseminate the treaty body outputs as well as other measures such as using social media, enhancing the OHCHR website, using the Universal Human Rights Index to cluster recommendations, establishing a public database for individual communications etc.

9. **Establishment of a treaty body jurisprudence database on individual cases including information on their follow-up** — The idea of a database, searchable in all six United Nations languages, containing all individual cases from all the complaints mechanisms.

10. **Joint treaty body working group on communications** — A joint body, composed of experts from the different treaty bodies to deal with individual communications in order to achieve a more coherent jurisprudence.

11. **Enhancing the capacity of the Subcommittee on Prevention of Torture** — To increase the capacity of the Subcommittee on Prevention of Torture to undertake more regular and advisory follow-up visits.

12. **Review of good practices regarding the application of rules of procedure and methods of work and adoption of common guidelines** — The idea of presenting common written guidelines on procedural matters related to the handling of the individual communications and the conduct of inquiries.

13. **Friendly settlements** — The idea of providing space for friendly settlements if parties are engaged in a dialogue to reach a common conclusion.

III. Reporting process

Overview

This theme addresses such issues as the reporting process, including simplified reporting process (list of issues), page limitations, reduction or elimination of summary records, focused concluding observations, common core documents.

Non-exhaustive list of issues to discuss

1. "**Simplified reporting procedure**" — Optional "simplified reporting procedure" or what is commonly referred to as "Lists of issues prior to reporting".

2. **The reduction of translation of summary records or their replacement by webcasting** — The idea of moving conference services resources away from summary records or replacing them with webcasting.

3. **Submission of common core documents and regular updates** — The optional submission of a common base report that is common to all the treaties and replaces the submission of individual reports to each treaty body.

4. **Aligned methodology for the constructive dialogue between States Parties and treaty bodies** — The idea that all treaty bodies adopt an aligned methodology in the form of written guidelines for the constructive dialogue between States Parties and treaty bodies. The objective would be to maximize the use of the time available and allow for a more interactive and productive dialogue with States Parties in the context of the reporting process.

5. **Aligned methodology for the procedures for consideration of individual communications** — The idea of elaborating common written

guidelines on procedural matters related to the handling of individual communications.

6. **Addressing backlogs and coordinated requests for additional meeting time** — How to address the current backlog of reports and the idea that requests for adjustments of committee meeting time be addressed in a single comprehensive annual or biannual request.

7. **Focused treaty body concluding observations** — The adoption of measures to adopt shorter, focused, concrete and achievable concluding observations.

8. **Strict adherence to page limitations** — The enforcement of the "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents" which sets out guidelines of page limitation for State reports.

9. **Further institutionalization of engagement with other United Nations partners** — Further institutionalized cooperation of treaty bodies with other United Nations entities to provide the most efficient support to States Parties and other stakeholders in the preparation, review and follow-up to States Parties review by treaty bodies.

10. **Aligned models of interaction among treaty bodies, national human rights institutions and civil society organizations** — Harmonize the way the treaty bodies engage with civil society organizations and national human rights institutions.

11. **Reprisals** — Harmonized approach and necessary measures to prevent reprisals against human rights defenders, victims and witnesses and take appropriate action to provide remedies.

IV. Capacity to implement

Overview

This theme addresses issues such as capacity-building activities related to reporting, national reporting and coordination mechanisms, treaty body follow-up measures, aligned consultation process for general comments and general recommendations.

Non-exhaustive list of issues

1. **The treaty bodies' follow-up procedures** — Simplified and improved procedures for follow-up of the recommendations issued by the treaty bodies, requesting the reporting States to provide written reports on the developments regarding specific recommendations.

2. **Aligned consultation process for the elaboration of General Comments/General recommendations** — A standardized process involving State Parties, United Nations entities, national human rights institutions and

civil society organizations when drafting general comments and general recommendations.

3. **Capacity-building activities relating to reporting** — Capacity-building activities by United Nations agencies at the national level to improve reporting, available on request from States Parties.

4. **A standing national reporting and coordination mechanism** — The idea of a permanent national mechanism to facilitate both timely reporting and improved coordination in follow-up to the recommendations of all United Nations human rights mechanisms.